In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.W.P.No. 5317 of 2006
Decided on Dec 15,2006.

Municipal Corporation, Patiala through its Commissioner --Petitioner

vs.

Luxmi Palace and another --Respondents.

Coram: Hon'ble Mr.Justice Jasbir Singh
Hon'ble Mr.Justice Pritam Pal

Present: Mr. Parminder Singh,Advocate,for the petitioner

Mr.Yogesh Rattan,Advocate, for respondent No.1

Mr.P.S.Chhina,Addl.A.G.Punjab,for respondent No.2.

Jasbir Singh J:(Oral)

This writ petition has been filed, with a prayer to quash the orders dated March 17,2005 and September 29,2005,Annexures P-2 and P-4 respectively, passed by respondent No.2.

Record reveals that in an appeal filed by respondent No. 1, the order passed by House Tax Assessment Committee, assessing house tax regarding property of respondent Nos. 1, for the period 2002-2003, was challenged. Admittedly, appeal was filed without complying with the provisions of Section 147 of the Municipal Corporation Act, 1976 (for short,'the Act'), and order passed by House Tax Assessment Committee, was quashed and property in question was ordered to be reassessed @ Rs. 32,077/- as annual rental value. Against order Annexure P-2, petitioner filed an application for review ,wherein it

was stated that appeal was liable to be rejected on the ground of non-payment of house tax assessed, as is mandatory under the provisions of Section 147 of the Act and also that appeal was barred by time. Review application was dismissed on September 29,2005 vide order Annexure P-4.

This Court feels that orders under challenge are contrary to the established law. Before filing the appeal, pre-deposit of tax assessed, is a condition precedent , which has to be fulfilled. Appeal was entertained contrary to the provisions of Section 147 of the Act. Finding regarding limitation was also not recorded. We feel that order passed is liable to be set aside and are quashed accordingly. However, keeping in view the ratio of judgment in ANZ Grindlays Bank Limited,Amritsar v. Municipal Corporation, Amritsar 1999 (2) RCR (Civil) 430, we allow respondent No.1, to deposit tax assessed and also to give an application for condonation of delay. If tax assessed is deposited within five weeks from today, respondent No2, shall decide application for condonation of delay and appeal on merits , as per law within two months,thereafter. If amount is not deposited, as directed, this writ petition shall be deemed to have been allowed without any further direction as referred to above.

(Jasbir Singh)
Judge

Dec 15,2006,
RR

(Pritam Pal)
Judge